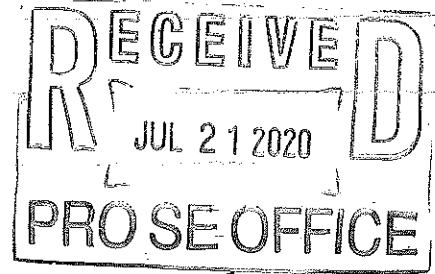


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK



MAHMUD ABOUHALIMA,  
Movant

V.

20-cv-834 (LAK)

UNITED STATES OF AMERICA,  
Respondant

93-cr-180 (LAK)

MOTION TO ALTER OR AMEND THE JUDGMENT  
PURSUANT TO RULE 59(e) Fed. R. Civ. P.

Comes Now Movant, Mahmud Abouhalima, Pro-se, File this motion

Pursuant to Rule 59(e) Fed. R. Civ. P. to alter or amend the Judgment on Count Nine in the above mentioned Case and in support states the Following:

On July 09, 2020 movant received copy of memorandum and order, through mail, signed by U.S.D.J. Lewis A. Kaplan on June 17, 2020 and Filed on 6/18/2020 (doc. 8) concluding among other things that movant motion to vacate his conviction [93-cr-180, DI 934; 20-cr-834, DI] is granted as to Count Ten and denied as count Nine. Count Nine charged movant under 18 U.S.C 924(c) as an enhanced Penalty to the Predicate offense for Count Eight assault on Federal official in violation of 18 U.S.C 111.

In his 6/18/2020 order, the Judge clearly indicated that he will resentence movant on Count Nine to the same 30 Years..

Movant now File this motion Pursuant to Rule 59(e) Fed. R. Civ. P.

The 30 Years sentence in Count Nine should be void because it is

In violation of Public law, 115-391, 132 stat, at 403 (a), Movant is resentenced (by the Amended Judgment) after the changes made to 18 U.S.C 924(c)(1)(C)(i) of Title IV section 403(a) of the First Step Act of 2018. The changes made by the Congress in 924(c)(1)(A)(i)-(iii) carries 5 years with the use, 7 years if charged with brandishing and 10 years if charged with discharging. Here Count Nine charged movant by using and carrying destructive device in violation of 18 U.S.C 924(c). The 30 years sentence on Count Nine is also void because Procedural Due Process required that movant receive notice that he would remain subjected to two separate Penalties when the Judge construed substantive assault on a Federal officer 18 U.S.C 111 and Count Nine 18 U.S.C 924(c)(3)(A) as one offense in his order on 6/18/2020 (Doc. 8).

Movant was deprived of a Liberty interest arising from the Due Process clause, U.S. Const. Amend V. Movant has Liberty interest to receive notice that the two statutes would be construed as one statute, without movant enjoying the opportunity to be subjected to one Penalty.

Accordingly movant is entitled to reduction of sentence on Count Nine to reflect the changes Congress made in Title IV section 403(a)(b) of the First Step Act of 2018 that 18, U.S.C 924(c) is no longer carry 30 years mandatory sentence.

Pursuant to 28 U.S.C. 1746 I declare under penalty of perjury that the foregoing is True and correct to the best of my knowledge and recollection...

July 13, 2020

DATE

Abouhalima

Mahmud Abouhalima

Reg No. 28064-054

U.S. Penitentiary ADMAX

P.O. Box 8500

Florence, CO 81226

CERTIFICATE OF SERVICE

I hereby certify the foregoing documents "Motion to alter or amend the Judgment and Notice of appeal" was provided to BOP staff to be sent via usps outgoing mail pursuant to the "Prison Mailbox Rule" to the United States District Court, Attn: Clerk of the Court Southern District of New York and another copy was also sent to the United States Assistant Attorney's office for the S.D.N.Y.

JULY 13, 2020

Date

Aboohalima

Mahmud Abouhalima  
Reg No. 28064-054  
U.S. Penitentiary - Max  
P.O. Box 8500  
Florence, CO 81226

Name: Mahmud Abouhalima  
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